

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ALABAMA SOUTHERN DIVISION

DAVID MILLAN, an individual,

Plaintiff,

v.

2:19-CV-01131-ACA

EL POBLANO MEXICAN
RESTAURANT, INC.,
a domestic corporation; and
FIDEL CASTRO, an individual,

Defendants

DEFENDANTS' RULE 26(a)(1) INITIAL DISCLOSURES

Pursuant to Fed. R. Civ. P. 26(a), Defendants El Poblano Mexican Restaurant, Inc., and Fidel Castro hereby serve these Initial Disclosures to Plaintiff.

Appendix A to these disclosures identifies the name and, if known, the address and telephone number of each individual likely to have discoverable information that the defendants may use to support their claims or defenses, unless solely for impeachment, identifying the subjects of the information.

Appendix B identifies a copy of, or a description by category and location of, all documents, data compilations, and tangible things that are in the possession, custody, or control of the party and that the defendants may use to support their

claims or defenses, unless solely for impeachment

Appendix C sets out a computation of any category of damages claimed by the defendants, making available for inspection and copying as under Rule 34 the documents or other evidentiary material, not privileged or protected from disclosure, on which such computation is based, including materials bearing on the nature and extent of injuries suffered.

Appendix D identifies and provides for inspection and copying as under Rule 34 of any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment.

Appendix A

Set out below is a list of names of each individual likely to have discoverable information that the defendants may use to support their claims or defenses, unless solely for impeachment, identifying the subjects of the information.

Fidel Castro, Owner and President of
El Poblano Mexican Restaurant, Inc
Residence: 519 Creekview Circle
Hoover, AL 35216
Phone (205) 919-3324

Mr. Castro has knowledge of the following: the payroll practices of El Poblano; the

hiring and retention of Mr. Millan by El Poblano but not by Mr. Castro individually; the work performed by Mr. Millan; the hours, including overtime, worked by Mr. Millan; the amounts that were paid to Mr. Millan by check; the amounts that were paid to Mr. Millan by cash; the hours not worked by Mr. Millan because he was scheduled off and the times that he was allowed to leave early; the receipt of cash tips by Mr. Millan; the absences of Mr. Millan; the vacation of Mr. Millan; the time off granted to Mr. Millan; the days the business was closed for holidays, weather or other unforeseen events; a loan that taken out by Mr. Castro to purchase a Lexus which Mr. Millan paid in full; an Allstate insurance policy taken out of Mr. Castro that provided coverage for Mr. Millan; occasions when strange materials were found in the restaurant; warnings to Mr. Millan to not engage in drug dealing; the spending habits of Mr. Millan; discussions with Mr. Milan about his earnings; payrolls records of El Poblano; the expensive cars that Mr. Milan purchased; the two customer payment systems used in the restaurant which were a credit card reader with handwritten tickets and a cash register system to take cash and credit card receipts.

Yesenia Castro, wife of Fidel Castro
519 Creekview Circle
Hoover, AL 35216

She works in the restaurant Ms. Castro works side by side with Fidel. She generally knows what Fidel knows, but not in the detail known by Fidel.

David Millan, Plaintiff. He should have knowledge of all of the allegations of the complaint. He should have knowledge that he was paid overtime and received tips while he was working. Address unknown.

Judy Daussman; Bookkeeper
Cooke; Cameron; Travis & Company; PC
2109 Devereux Circle
Birmingham; AL 35243
Office phone (205) 967-0101

Ms. Daussman has knowledge concerning the payroll practices utilized by El Poblano and the role of Fidel Castro in those practices; She prepares the checks utilized in paying some employees. She keeps accounting records concerning hours for which payroll is paid by check. She is supervised by Mr. Cameron.

Dennis Cameron; CPA
Cooke; Cameron; Travis & Company; PC
2109 Devereux Circle
Birmingham; AL 35243
Office phone (205) 967-0101

Mr. Cameron has high-level knowledge concerning the payroll practices utilized by El Poblano and the role of Fidel Castro in those practices; He supervises the overall accounting of El Poblano; including preparation of the payroll of El Poblano.

Diana J Morales; waiter
9934 Cobbs Cove Lane
Houston, TX 77044
Cell: (936) 249-7608

She formerly worked in the restaurant. Ms. Morales has knowledge relating to her payroll, to the operations of El Poblano and the roles of Mr. Millan and Mr. Castro.

Javier Miranda
Birmingham, AL

Works in the restaurant. Mr. Miranda has knowledge relating to the staffing and hours.

Employees of Lexus/Toyota Dealership

Including **Jeff Wong**, Finance Manager and **Craig Curlette**, Salesman
Tom Williams Lexus
1001 Tom Williams Way
Irondale, AL 35210
tomwilliamslexus.com
(205) 252-5000
(800) 395-3987
Fax (205) 252-3617

They sold the Lexus to Fidel Castro for Millan to drive

Employees of Allstate Insurance Company
Byron Easton and Andrew Schifano
3979 Parkwood Rd,
Ste 105
Bessemer, AL 35022
(205) 565-0313

They sold insurance on the Lexus to Fidel Castro to insure the Lexus and Millan while Milan was driving it.

Appendix B

Appendix B identifies a copy of; or a description by category and location of; all documents; data compilations; and tangible things that are in the possession;

custody; or control of the defendants and that the disclosing defendants may use to support their claims or defenses; unless solely for impeachment. These documents include:

1. W-2s for Mr. Millan and other documents;
2. Records of wage payments to Mr. Millan;
3. Copies of checks paid to Mr. Millan;
4. Remittance statements for mostly to-go orders reflecting tips paid by customers to employees;
5. Individual tickets for customers;
6. Summaries of tips received on to-go orders;
7. Records from Lexus Financial Services of payments made on 2014 Lexus IS250;
8. Records reflecting the purchase and financing of a 2014 Lexus IS250 by Fidel Castro and insurance from Allstate covering Mr. Millan;
9. Pictures of restaurant showing cash register station and credit card reader station;
10. Weather information reflecting bad weather days when the restaurant was closed during the period July 1, 2017 to the date of Mr. Millan's last work day before November 13, 2018.

11. Allstate Insurance policy on Lexus

Appendix C

Appendix C affirms that no damages are claimed by the defendants; that there are no computations of damages claimed by the defendants; and that there are no documents or other evidentiary material reflecting any computations of damages claimed by the defendants.

Appendix D

Appendix D affirms that there are not any insurance agreements under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in this action or to indemnify or reimburse for payments made to satisfy the judgment.

Filed the 25th day of October; 2019.

/Lewis Page//

Lewis Page ASB 2860 P46L
Attorney for FIDEL CASTRO
and EL POBLANO MEXICAN
RESTAURANT; INC.

Certificate of Service

I hereby certify that on the 25th day of October; 2019; I will electronically file the foregoing with the Clerk of Court using the CM/ECF system; which will then send a notification of such filing to the following:

Freddy Rubio; Esq.
Charline Whyte; Esq.
RUBIO LAW FIRM; P.C.
438 Carr Avenue; Suite I
Birmingham; AL 35209

And I hereby certify that I will mail the document by U.S. mail to the following non-filing user: None.

/Lewis Page/
Lewis Page
Counsel